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## SCHEDULES

### [<sup>F1</sup>SCHEDULE A1

#### MONETARY PENALTY NOTICES IN RELATION TO CERTAIN UNLAWFUL INTERCEPTIONS

##### Textual Amendments

- F1** Sch. A1 inserted (17.6.2011) by [The Regulation of Investigatory Powers \(Monetary Penalty Notices and Consents for Interceptions\) Regulations 2011 \(S.I. 2011/1340\)](#), **regs. 1(2), 2(4)** {Sch.}

#### PART 1

#### MONETARY PENALTY NOTICES

##### *General*

- 1 (1) A monetary penalty notice is a notice requiring the person on whom it is served to pay to the Interception of Communications Commissioner (“the Commissioner”) a monetary penalty of an amount determined by the Commissioner and specified in the notice.
- (2) The amount determined by the Commissioner must not exceed £50,000.
- (3) The monetary penalty must be paid to the Commissioner within such period as is specified in the notice.
- (4) The period concerned must not be less than 28 days beginning with the day after the day on which the notice is served.
- (5) The notice must, in particular—
- (a) state the name and address of the person on whom it is to be served,
  - (b) provide details of the notice of intent served on that person,
  - (c) state whether the Commissioner has received written representations in accordance with that notice,
  - (d) state the grounds on which the Commissioner serves the monetary penalty notice,
  - (e) state the grounds on which the Commissioner decided the amount of the monetary penalty,
  - (f) state the details of how the monetary penalty is to be paid,
  - (g) provide details of the rights of appeal of the person concerned under paragraph 5 in respect of the monetary penalty notice,
  - (h) provide details of the Commissioner's rights of enforcement under paragraph 6 in respect of the monetary penalty notice.

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- (6) Any sum received by the Commissioner by virtue of a monetary penalty notice must be paid into the Consolidated Fund.

**Modifications etc. (not altering text)**

- C1** Sch. A1 para. 1 modified (1.9.2017) by [The Investigatory Powers Act 2016 \(Commencement No. 3 and Transitory, Transitional and Saving Provisions\) Regulations 2017 \(S.I. 2017/859\)](#), [reg. 4](#)

*Enforcement obligations*

- 2 (1) The Commissioner may include one or more than one enforcement obligation in a monetary penalty notice if the Commissioner considers that the interception to which the notice relates is continuing.
- (2) Each of the following is an enforcement obligation—
- (a) a requirement on the person on whom the notice is served to cease the interception concerned on such day, or within such period, as is specified in the notice,
  - (b) (where appropriate for achieving such a cessation) a requirement on the person to take within such period as is specified in the notice, or to refrain from taking after the end of such period as is so specified, such steps as are so specified.
- (3) No enforcement obligation is to have effect before the end of the period of 7 days beginning with the day after the day on which the notice is served.
- (4) Where an enforcement obligation is included in a monetary penalty notice under this paragraph, the notice must state what the obligation is and the grounds for including it.

*Consultation requirements before service of notices*

- 3 (1) The Commissioner must proceed in accordance with sub-paragraphs (2) to (7) before serving a monetary penalty notice on a person.
- (2) The Commissioner must serve a notice of intent on the person.
- (3) A notice of intent is a notice that the Commissioner proposes to serve a monetary penalty notice on the person.
- (4) A notice of intent must, in particular—
- (a) state the name and address of the person concerned,
  - (b) state the grounds on which the Commissioner proposes to serve the monetary penalty notice,
  - (c) provide an indication of the amount of the monetary penalty that the Commissioner proposes to impose and the Commissioner's grounds for deciding that amount,
  - (d) state whether the monetary penalty notice is to include any enforcement obligation and, if so, what the obligation is and the grounds for including it,
  - (e) state the date on which the Commissioner proposes to serve the monetary penalty notice,

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- (f) inform the person concerned that the person may make written representations in relation to the Commissioner's proposal within a period specified in the notice, and
  - (g) inform the person concerned that the person may, within a period specified in the notice, request an oral hearing before the Commissioner in order to make representations of the kind mentioned in sub-paragraph (6)(b).
- (5) No period specified as mentioned in sub-paragraph (4)(f) or (g) may be less than 21 days beginning with the day after the day on which the notice is served.
- (6) Where the person concerned has requested an oral hearing within the period specified for the purpose in the notice—
- (a) the Commissioner must arrange such a hearing, and
  - (b) the person may make representations at the hearing about—
    - (i) any matter falling within section 1(1A)(a)(ii), or
    - (ii) any other matter relating to the Commissioner's proposal which, by virtue of section 17, the person would be unable to raise on an appeal under paragraph 5.
- (7) The Commissioner must consider any representations which have been made by the person concerned in accordance with the notice or sub-paragraph (6).
- (8) Subject to sub-paragraph (9), the Commissioner may not vary a notice of intent.
- (9) The Commissioner may vary a notice of intent by extending the period mentioned in sub-paragraph (4)(f) or (g).
- (10) Sub-paragraph (8) does not prevent the Commissioner from issuing a new notice of intent instead of varying such a notice.
- (11) The Commissioner may cancel a notice of intent.
- (12) A variation or cancellation of a notice of intent is effected by serving on the person on whom the notice was served a notice setting out the variation or cancellation.
- (13) Subject to sub-paragraph (14), the Commissioner must not serve a monetary penalty notice on a person in respect of an interception if any notice of intent in respect of that interception was served on the person more than 3 months earlier.
- (14) The Commissioner may serve a monetary penalty notice on a person where the service of the notice would otherwise be prevented by virtue of sub-paragraph (13) if the Commissioner—
- (a) considers it reasonable to do so, and
  - (b) includes the reasons for doing so in the monetary penalty notice.
- (15) If the Commissioner decides not to serve a monetary penalty notice on a person as a result of any representations which have been made by the person in accordance with a notice of intent or sub-paragraph (6), the Commissioner must inform the person of that fact.

#### *Variation or cancellation of notices*

- 4 (1) The Commissioner may, subject as follows, vary or cancel a monetary penalty notice.

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- (2) The Commissioner may not vary a monetary penalty notice in a way that is detrimental to the person on whom it was served (whether by increasing the amount of the monetary penalty, by reducing the period specified in the notice as the period within which the penalty must be paid, by imposing a new enforcement obligation or making an existing enforcement obligation effective earlier or otherwise more onerous, or otherwise).
- (3) The Commissioner must—
  - (a) in the case of a variation which reduces the amount of a monetary penalty, repay any excess already paid in accordance with the notice, and
  - (b) in the case of a cancellation, repay any amount already paid in accordance with the notice.
- (4) A variation or cancellation of a monetary penalty notice is effected by serving on the person on whom the monetary penalty notice was served a notice setting out the variation or cancellation.
- (5) The Commissioner may not serve another monetary penalty notice on a person in respect of an interception if the Commissioner has cancelled a previous notice served on the person in respect of the same interception.
- (6) If the Commissioner refuses a request by a person to vary or cancel a monetary penalty notice which has been served on the person, the Commissioner must inform the person of that fact.

#### *Appeals against notices*

- 5 (1) A person on whom a monetary penalty notice is served may appeal to the First-tier Tribunal against—
  - (a) the monetary penalty notice or any provision of it, or
  - (b) any refusal of a request by the person to issue a notice of variation or cancellation in relation to the monetary penalty notice.
- (2) Where there is an appeal under sub-paragraph (1)(a) in relation to a monetary penalty notice or any provision of it, any requirement in the notice or (as the case may be) provision concerned which does not relate to the imposition of an enforcement obligation need not be complied with until the appeal is withdrawn or finally determined.
- (3) Sub-paragraphs (4) to (6) apply in relation to an appeal under sub-paragraph (1)(a).
- (4) The First-tier Tribunal must allow the appeal or substitute such other monetary penalty notice as could have been served by the Commissioner if the Tribunal considers—
  - (a) that the notice concerned is not in accordance with the law, or
  - (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that the Commissioner ought to have exercised the discretion differently.
- (5) In any other case, the First-tier Tribunal must dismiss the appeal.
- (6) The First-tier Tribunal may review any determination of fact on which the notice concerned was based.

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- (7) Sub-paragraphs (8) to (10) apply in relation to an appeal under sub-paragraph (1)(b).
- (8) The First-tier Tribunal must direct the Commissioner to issue, on such terms as the Tribunal considers appropriate, a notice of variation or cancellation in relation to the monetary penalty notice if the Tribunal considers that the monetary penalty notice ought to be varied or cancelled on those terms.
- (9) In any other case, the First-tier Tribunal must dismiss the appeal.
- (10) The First-tier Tribunal may review any determination of fact on which the refusal to issue the notice of variation or cancellation was based.

#### *Enforcement of notices*

- 6 (1) Sub-paragraphs (2) and (3) apply in relation to any penalty payable to the Commissioner by virtue of a monetary penalty notice.
- (2) In England and Wales or Northern Ireland, the penalty is recoverable—
  - (a) if [<sup>F2</sup>the county court in England and Wales or a county court in Northern Ireland] so orders, as if it were payable under an order of that court,
  - (b) if the High Court so orders, as if it were payable under an order of that court.
- (3) In Scotland, the penalty is recoverable as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff for any sheriffdom in Scotland.
- (4) The person on whom a monetary penalty notice containing an enforcement obligation is served must comply with the obligation; and that duty is enforceable by civil proceedings by the Commissioner for an injunction, or for specific performance of a statutory duty under section 45 of the Court of Session Act 1988 <sup>M1</sup>, or for any other appropriate relief.

#### **Textual Amendments**

- F2** Words in [Sch. A1 para. 6\(2\)\(a\)](#) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 125](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

#### **Marginal Citations**

- M1** [1988 c.36.](#)

#### *Guidance*

- 7 (1) The Commissioner must prepare and issue guidance on how the Commissioner proposes to exercise the Commissioner's functions under section 1(1A) and (1B) and this Schedule.
- (2) The guidance must, in particular, deal with—
  - (a) the manner in which the Commissioner is to deal with claims of a description specified in the guidance which may give rise to grounds for serving a monetary penalty notice,
  - (b) the circumstances in which the Commissioner would consider it appropriate to serve a monetary penalty notice,

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- (c) how the Commissioner will determine the amount of the penalty, and
  - (d) the circumstances in which the Commissioner would consider it appropriate to impose an enforcement obligation.
- (3) The Commissioner may alter or replace the guidance.
- (4) If the guidance is altered or replaced, the Commissioner must issue the altered or replacement guidance.
- (5) The Commissioner must arrange for the publication, in such form and manner as the Commissioner considers appropriate, of any guidance issued under this paragraph.

*Interpretation: Part 1*

- 8 In this Part—
- “address” means—
- (a) in the case of a registered company, the address of its registered office, and
  - (b) in the case of a person (other than a registered company) carrying on a business, the address of the person's principal place of business in the United Kingdom;
- “business” includes any trade or profession;
- “the Commissioner” has the meaning given by paragraph 1(1);
- “enforcement obligation” has the meaning given by paragraph 2(2);
- “monetary penalty notice” means a monetary penalty notice under section 1(1A);
- “notice” means notice in writing;
- “notice of intent” means a notice under paragraph 3(2) to (5);
- “registered company” means a company registered under the enactments relating to companies for the time being in force in the United Kingdom.

**PART 2**

INFORMATION PROVISIONS

*Information notices*

- 9 (1) The Commissioner may by notice (“an information notice”) request any person on whom the Commissioner is considering whether to serve a Part 1 notice of intent or a Part 1 monetary penalty notice to provide such information as the Commissioner reasonably requires for the purpose of deciding whether to serve the Part 1 notice concerned.
- (2) Where the Commissioner requests that documents be produced, the Commissioner may take copies of, or extracts from, any document so produced.
- (3) An information notice must—
- (a) specify or describe the information to be provided,
  - (b) specify the manner in which, and the period within which, the information is to be provided,

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- (c) state that the Commissioner considers that the information is information which the Commissioner reasonably requires for the purpose of deciding whether to serve a Part 1 notice of intent or (as the case may be) a Part 1 monetary penalty notice,
  - (d) state the Commissioner's grounds for this view, and
  - (e) provide details of the rights of appeal under paragraph 10 in respect of the information notice.
- (4) For the purposes of sub-paragraph (3)(b)—
- (a) specifying the manner in which the information is to be provided may include specifying the form in which it is to be provided, and
  - (b) the specified period within which the information is to be provided must not be less than 28 days beginning with the day after the day on which the information notice is served.
- (5) Subject to sub-paragraph (6), the Commissioner may not vary an information notice.
- (6) The Commissioner may vary an information notice by extending the period within which the information is to be provided if the person on whom the notice is served appeals under paragraph 10 in relation to the notice.
- (7) Sub-paragraph (5) does not prevent the Commissioner from issuing a new information notice instead of varying such a notice.
- (8) The Commissioner may cancel an information notice.
- (9) A variation or cancellation of an information notice is effected by serving on the person on whom the notice was served a notice setting out the variation or cancellation.

#### *Appeals against notices*

- 10 (1) A person on whom an information notice is served may appeal to the First-tier Tribunal against—
- (a) the information notice or any provision of it, or
  - (b) any refusal of a request by the person to issue a notice of variation or cancellation in relation to the information notice.
- (2) Subject to paragraph 9(6), an appeal under this paragraph does not affect the need to comply with the information notice while the appeal is not finally determined.
- (3) Sub-paragraphs (4) to (6) apply in relation to an appeal under sub-paragraph (1)(a).
- (4) The First-tier Tribunal must allow the appeal or substitute such other information notice as could have been served by the Commissioner if the Tribunal considers—
- (a) that the notice concerned is not in accordance with the law, or
  - (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that the Commissioner ought to have exercised the discretion differently.
- (5) In any other case, the First-tier Tribunal must dismiss the appeal.
- (6) The First-tier Tribunal may review any determination of fact on which the notice concerned was based.

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- (7) Sub-paragraphs (8) to (10) apply in relation to an appeal under sub-paragraph (1)(b).
- (8) The First-tier Tribunal must direct the Commissioner to issue, on such terms as the Tribunal considers appropriate, a notice of variation or cancellation in relation to the information notice if the Tribunal considers that the information notice ought to be varied or cancelled on those terms.
- (9) In any other case, the First-tier Tribunal must dismiss the appeal.
- (10) The First-tier Tribunal may review any determination of fact on which the refusal to issue the notice of variation or cancellation was based.

#### *Enforcement of notices*

- 11 (1) The Commissioner may serve a Part 2 monetary penalty notice on a person if the person—
- (a) without reasonable excuse refuses or fails to comply with an information notice, or
  - (b) knowingly or recklessly gives any information which is false in a material particular in response to an information notice.
- (2) Subject to sub-paragraphs (3) to (7), Part 1 of this Schedule applies in relation to a Part 2 monetary penalty notice and the penalty that relates to that notice as it applies in relation to a Part 1 monetary penalty notice and the penalty that relates to that notice.
- (3) The amount of the monetary penalty determined by the Commissioner and specified in the Part 2 monetary penalty notice may be—
- (a) a fixed amount,
  - (b) an amount calculated by reference to a daily rate, or
  - (c) a fixed amount and an amount calculated by reference to a daily rate, provided that the total amount payable does not exceed £10,000.
- (4) In the case of an amount calculated by reference to a daily rate—
- (a) no account is to be taken of the day on which the Part 2 monetary penalty notice is served or any day before that day, and
  - (b) the Part 2 monetary penalty notice must specify—
    - (i) the day on which the amount first starts to accumulate and the circumstances in which it is to cease to accumulate, and
    - (ii) the period or periods within which the amount, or any part or parts so far accumulated, must be paid to the Commissioner (provided that no such period ends less than 28 days beginning with the day after the day on which the notice is served).
- (5) The provisions in Part 1 of this Schedule so far as relating to enforcement obligations do not apply in relation to a Part 2 monetary penalty notice.
- (6) Paragraph 3 applies by virtue of sub-paragraph (2) above as if—
- (a) paragraph 3(6)(b)(i), the word “or” at the end of that sub-paragraph (i) and the word “other” in paragraph 3(6)(b)(ii) were omitted, and
  - (b) in paragraph 3(13) the references to an interception were references to conduct falling within paragraph 11(1)(a) or (b).



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- (7) Paragraph 4(5) applies by virtue of sub-paragraph (2) above as if the references to an interception were references to conduct falling within paragraph 11(1)(a) or (b).

*Technical assistance for the Commissioner*

- 12 (1) OFCOM must comply with any reasonable request made by the Commissioner, in connection with the Commissioner's functions under section 1(1A) and (1B) and this Schedule, for advice on technical and similar matters relating to electronic communications.
- (2) For this purpose, the Commissioner may disclose to OFCOM any information obtained by the Commissioner under this Schedule.
- (3) In this paragraph “OFCOM” means the Office of Communications established by section 1 of the Office of Communications Act 2002 <sup>M2</sup>.

**Marginal Citations**

M2 2002 c.11.

*Interpretation: Part 2*

- 13 In this Part—
- “the Commissioner” has the meaning given by paragraph 1(1);
  - “enforcement obligation” has the meaning given by paragraph 2(2);
  - “information” includes documents; and any reference to providing or giving information includes a reference to producing a document;
  - “information notice” has the meaning given by paragraph 9(1);
  - “notice” means notice in writing;
  - “Part 1 monetary penalty notice” means a monetary penalty notice under section 1(1A);
  - “Part 2 monetary penalty notice” means a monetary penalty notice under paragraph 11; “Part 1 notice of intent” means a notice under paragraph 3(2) to (5) (but excluding those provisions as applied by paragraph 11).]

SCHEDULE 1

Section 30.

RELEVANT PUBLIC AUTHORITIES

**PART I**

RELEVANT AUTHORITIES FOR THE PURPOSES OF SS. 28 AND 29

*Police forces etc.*

- 1 Any police force.
- [<sup>F3</sup>] The Civil Nuclear Constabulary.]]

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<sup>F4</sup>1A

**Textual Amendments**

- F3** Sch. 1 para. 1A inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(2)**
- F4** Sch. 1 para. 1A substituted (1.4.2005) by [Energy Act 2004 \(c. 20\)](#), ss. 69, 198(2), **Sch. 14 para. 8(2)**; [S.I. 2005/877](#), **art. 2(1)**, Sch. 1

[<sup>F5</sup>2 The National Crime Agency.]

**Textual Amendments**

- F5** Sch. 1 para. 2 substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 99**; [S.I. 2013/1682](#), art. 3(v)

<sup>F6</sup>2A .....

**Textual Amendments**

- F6** Sch. 1 para. 2A omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), **Sch. 2 para. 33(25)**

3 .....

4 The Serious Fraud Office.

[<sup>F8</sup>4A <sup>F9</sup> .....

**Textual Amendments**

- F8** Sch. 1 paras. 4A, 4B added (5.5.2005) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2005 \(S.I. 2005/1084\)](#), arts. 1(2), **2(1)** (subject to art. 1(3))
- F9** Sch. 1 para. 4A omitted (6.4.2010) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), **2(2)(a)** (with art. 9)

4B The force comprising the constables appointed under article 3 of the Mersey Docks and Harbour (Police) Order 1975 <sup>M3</sup> on the nomination of the Mersey Docks and Harbour Company.]

**Textual Amendments**

- F8** Sch. 1 paras. 4A, 4B added (5.5.2005) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2005 \(S.I. 2005/1084\)](#), arts. 1(2), **2(1)** (subject to art. 1(3))

**Marginal Citations**

- M3** [S.I. 1975/1224](#).

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*The intelligence services*

5 Any of the intelligence services.

*The armed forces*

6 Any of Her Majesty’s forces.

*[<sup>F10</sup>Revenue and Customs]*

**Textual Amendments**

**F10** Sch. 1 para. 7 and cross-heading substituted for Sch. 1 paras. 7, 8 and cross-heading (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 28](#); S.I. 2008/219, [art. 2\(b\)](#)

[<sup>F117</sup> Her Majesty's Revenue and Customs.]

**Textual Amendments**

**F11** Sch. 1 para. 7 and cross-heading substituted (15.2.2008) for Sch. 1 paras. 7, 8 and cross-heading by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 28](#); S.I. 2008/219, [art. 2\(b\)](#)

8 .....

*Government departments*

<sup>F139</sup> .....

**Textual Amendments**

**F13** Sch. 1 Pt. I: by [S.I. 2002/794](#), [art. 5\(1\)\(2\)](#), [Sch. 1 para. 39](#), [Sch. 2](#) (with [arts. 5\(3\)](#), 6) it is provided (27.3.2002) that the entry relating to the “Ministry of Agriculture, Fisheries and Food” is repealed and the words “The Department for Environment, Food and Rural Affairs” inserted at the appropriate place

<sup>F149ZA</sup> .....

**Textual Amendments**

**F14** Sch. 1 para. 9ZA omitted (13.11.2009) by virtue of [The Secretary of State for Business, Innovation and Skills Order 2009 \(S.I. 2009/2748\)](#), [art. 8](#), [Sch. para. 6\(b\)](#) (with [art. 7](#))

<sup>F159ZB</sup> .....

**Textual Amendments**

**F15** Sch. 1 para. 9ZB omitted (9.11.2016) by [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), [Sch. para. 8\(b\)](#)

[<sup>F169ZC</sup> The Department for Business, Energy and Industrial Strategy.]

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**Textual Amendments**

**F16** Sch. 1 para. 9ZC inserted (9.11.2016) by [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), art. 1(2), **Sch. para. 8(a)** (with art. 13)

[<sup>F17</sup>9A The Department for Communities and Local Government]

**Textual Amendments**

**F17** Sch. 1 para. 9A inserted (21.8.2006) by [The Secretary of State for Communities and Local Government Order 2006 \(S.I. 2006/1926\)](#), arts. 1(2), 9, **Sch. para. 7**

<sup>F18</sup>10 .....

**Textual Amendments**

**F18** Sch. 1 para. 10 omitted (6.4.2010) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), **2(2)(b)** (with art. 9)

[<sup>F19</sup>The Office of the Deputy Prime Minister.]

**Textual Amendments**

**F19** Sch. 1 Pt. I: by [S.I. 2002/2626](#), art. 20, **Sch. 2 para. 24(a)(b)** it is provided (25.11.2002) that the entry relating to the “Department for Transport, Local Government and the Regions” is repealed, and the words “The Department for Transport” and “the Office of the Deputy Prime Minister” inserted at the appropriate place

<sup>F20</sup> ...

**Textual Amendments**

**F20** Sch. 1 Pt. 1: entry relating to "the Department of Energy and Climate Change" omitted (9.11.2016) by virtue of [The Secretaries of State for Business, Energy and Industrial Strategy, for International Trade and for Exiting the European Union and the Transfer of Functions \(Education and Skills\) Order 2016 \(S.I. 2016/992\)](#), Sch. para. 8(b)

[<sup>F13</sup>The Department for Environment, Food and Rural Affairs.]

<sup>F21</sup>11 .....

**Textual Amendments**

**F21** Sch. 1 Pt. 1: by [S.I. 2001/2568](#), Sch. para. 18 it is provided that the entry relating to the “Department of Environment, Transport and the Regions” is repealed and the words “The Department for Transport, Local Government and the Regions” inserted at the appropriate place

*Status: Point in time view as at 01/09/2017.*

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12 The Department of Health.

13 The Home Office.

[<sup>F22</sup>13ZA The Ministry of Justice]

**Textual Amendments**

**F22** Sch. 1 para. 13ZA inserted (22.8.2007) by [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), arts. 1(2), 8, **Sch. para. 7**

[<sup>F23</sup>13A The Northern Ireland Office.]

**Textual Amendments**

**F23** Sch. 1 Pt. 1 para. 13A inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(3)**

<sup>F24</sup>14 .....

**Textual Amendments**

**F24** Sch. 1 Pt. 1: by [S.I. 2002/1397, art. 12, Sch. para. 16](#) it is provided (27.6.2002) that the entry relating to the Department of Social Security is repealed and the words "The Department for Work and Pensions" inserted at the appropriate place

<sup>F25</sup>15 .....

**Textual Amendments**

**F25** Sch. 1: entry for the "Department of Trade and Industry" omitted (12.12.2007) by virtue of [The Secretaries of State for Children, Schools and Families, for Innovation, Universities and Skills and for Business, Enterprise and Regulatory Reform Order 2007 \(S.I. 2007/3224\)](#), arts. 1(2), 15, **Sch. para. 9(b)**

[<sup>F19</sup>The Department for Transport.]

<sup>F19</sup> .....

<sup>F26</sup> .....

**Textual Amendments**

**F26** By [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), **art. 2(2)(c)** (with **art. 9**) it is provided (6.4.2010) that, in Pt. 1 of Sch. 1, "para. 15B (the Department for Work and Pensions)" is omitted.

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*[<sup>F27</sup>The Welsh Assembly Government]*

**Textual Amendments**

- F27** Sch. 1 para. 16 and cross-heading substituted (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#)) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, **Sch. 1 para. 76(3)**

[<sup>F28</sup>16 The Welsh Assembly Government.]

**Textual Amendments**

- F28** Sch. 1 para. 16 and cross-heading substituted (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#)) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), arts. 1(2)(3), 3, **Sch. 1 para. 76(3)**

*Local authorities*

[<sup>F29</sup>17 Any county council or district council in England, a London borough council, the Common Council of the City of London in its capacity as a local authority, the Council of the Isles of Scilly, and any county council or county borough council in Wales.]

**Textual Amendments**

- F29** Sch. 1 Pt. 1 para. 17 substituted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(4)**

[<sup>F30</sup>[<sup>F31</sup>17A Any fire and rescue authority under the Fire and Rescue Services Act 2004 <sup>M4</sup>.]]

**Textual Amendments**

- F30** Sch. 1 Pt. 1 para. 17A inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(5)**
- F31** Sch. 1 para. 17A substituted (6.4.2010) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), **2(3)** (with art. 9)

**Marginal Citations**

- M4** 2004 c.21.

*Other bodies*

[<sup>F32</sup>17B The Charity Commission.]

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**Textual Amendments**

**F32** Sch. 1 Pt. 1 para. 17B inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(6)**

18 The Environment Agency.

[<sup>F33</sup>19 The Financial Conduct Authority.

**Textual Amendments**

**F33** Sch. 1 paras. 19, 19A substituted for Sch. 1 para. 19 (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 88** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

19A The Prudential Regulation Authority.]

**Textual Amendments**

**F33** Sch. 1 paras. 19, 19A substituted for Sch. 1 para. 19 (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 88** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

20 The Food Standards Agency.

[<sup>F34</sup>[<sup>F35</sup>20A Gambling Commission]

**Textual Amendments**

**F34** Words in Sch. 1 para. 20A substituted (1.10.2005) by [Gambling Act 2005 \(c. 19\)](#), ss. 356, 358, **Sch. 16 para. 14** (with ss. 352, 354, Sch. 16 para. 21); S.I. 2005/2455, **art. 2(1)**, Sch.

**F35** Sch. 1 Pt. 1 paras. 20A-20D inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(7)**

[<sup>F36</sup>20B The Competition and Markets Authority.]

**Textual Amendments**

**F35** Sch. 1 Pt. 1 paras. 20A-20D inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(7)**

**F36** Sch. 1 para. 20B substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 143** (with art. 3)

20C The Office of the Police Ombudsman for Northern Ireland.

**Textual Amendments**

**F35** Sch. 1 Pt. 1 paras. 20A-20D inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(7)**

20D <sup>F37</sup>.....]

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**Textual Amendments**

- F35** Sch. 1 Pt. 1 paras. 20A-20D inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 2(7)**
- F37** Sch. 1 para. 20D omitted (6.4.2010) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), **2(2)(d)** (with art. 9)

[<sup>F38</sup>20E The [<sup>F39</sup>Gangmasters and Labour Abuse Authority ] .

**Textual Amendments**

- F38** Sch. 1 paras. 20E, 20F inserted (26.7.2006) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2006 \(S.I. 2006/1874\)](#), arts. 1, 2
- F39** Words in Sch. 1 para. 20E substituted (12.7.2016) by [Immigration Act 2016 \(c. 19\)](#), s. 94(1), **Sch. 3 para. 8**; S.I. 2016/603, reg. 3(u)

[<sup>F40</sup>20F The Care Quality Commission.]]

**Textual Amendments**

- F38** Sch. 1 paras. 20E, 20F inserted (26.7.2006) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2006 \(S.I. 2006/1874\)](#), arts. 1, 2
- F40** Sch. 1 para. 20F substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 95, 170, **Sch. 5 para. 72**; S.I. 2009/462, **art. 2**, Sch. 1 para. 35(x)

[<sup>F41</sup>20G The Health and Safety Executive.]

**Textual Amendments**

- F41** Sch. 1 para. 20G inserted (6.4.2010) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), **2(4)** (with art. 9)

<sup>F42</sup>21 .....

**Textual Amendments**

- F42** Sch. 1 para. 21 repealed (15.11.2001) by [S.I. 2001/3686](#), **art. 6(17)(b)**

22 <sup>F43</sup> .....

**Textual Amendments**

- F43** Sch. 1 para. 22 repealed (3.7.2002) by [S.I. 2002/1555](#), **art. 26**

23 <sup>F44</sup> .....



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#### Textual Amendments

- F44** Sch. 1 para. 23 omitted (6.4.2010) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), **2(2)(e)** (with art. 9)

[<sup>F45</sup>23A The Office of Communications.]

#### Textual Amendments

- F45** Sch. 1 para. 23A inserted (29.12.2003) by [Communications Act 2003 \(c. 21\)](#), ss. 406, 411, **Sch. 17 para. 161(3)** (with transitional provisions in [Sch. 18](#)); [S.I. 2003/3142](#), **art. 3(1)** Sch. 1 {subject to art. 3(3)}

#### *[Northern Ireland authorities*

#### Extent Information

- E1** Sch. 1 Pt. 1 paras. 23A-23D and heading 'Northern Ireland authorities' inserted (2.7.2002) by [Regulation of Investigatory Powers Act 2000 \(Amendment\) Order \(Northern Ireland\) 2002 \(S.R. 2002/183\)](#), arts. 1, **3**

- 23A The Department of Agriculture and Rural Development.  
23B The Department of Enterprise, Trade and Investment.  
23C The Department of the Environment.  
23D Any district council (within the meaning of section 44 of the Interpretation Act (Northern Ireland) 1954 <sup>M5</sup>).

#### Marginal Citations

- M5** [1954 c. 33 \(N.I.\)](#)

[<sup>F46</sup>23E The Department of Justice.]

#### Textual Amendments

- F46** Sch. 1 para. 23E inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 6(1), **Sch. 4 para. 26** (with arts. 28-31)

## PART II

### RELEVANT AUTHORITIES FOR THE PURPOSES ONLY OF S. 28

#### *The Health and Safety Executive*

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#### Textual Amendments

- F47** Sch. 1 para. 24 omitted (6.4.2010) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), **2(5)** (with art. 9)

#### *NHS bodies in England and Wales*

25 **F48** .....

#### Textual Amendments

- F48** Sch. 1 Pt. 1 para. 25 omitted (5.5.2005) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2005 \(S.I. 2005/1084\)](#), arts. 1(2), **2(2)** (subject to art. 1(3))

26 A Special Health Authority established under [<sup>F49</sup>section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006] .

#### Textual Amendments

- F49** Words in Sch. 1 para. 26 substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8, **Sch. 1 para. 209(a)** (with Sch. 3 Pt. 1)

27 **F50** .....

#### Textual Amendments

- F50** Sch. 1 para. 27 omitted (26.7.2006) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2006 \(S.I. 2006/1874\)](#), **art. 3(a)**

[<sup>F51</sup>27A **F52** .....

#### Textual Amendments

- F51** Sch. 1 paras. 27A-27D and cross-headings inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 3(2)**
- F52** Sch. 1 para. 27A omitted (26.7.2006) by virtue of [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2006 \(S.I. 2006/1874\)](#), **art. 3(b)**

[<sup>F53</sup><sup>F54</sup>*HM Chief Inspector of Education, Children's Services and Skills*]

#### Textual Amendments

- F53** Sch. 1 paras. 27A-27D and cross-headings inserted (5.1.2004) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2003 \(S.I. 2003/3171\)](#), **art. 3(2)**

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**F54** Sch. 1 Pt. 2 para. 27B and cross-heading substituted (1.4.2007) by [Education and Inspections Act 2006](#) (c. 40), ss. 157, 188, **Sch. 14 para. 68**; S.I. 2007/935, **art. 5(gg)**

[<sup>F55</sup>27B Her Majesty's Chief Inspector of Education, Children's Services and Skills.]

**Textual Amendments**

**F55** Sch. 1 Pt. 2 para. 27B and cross-heading substituted (1.4.2007) by [Education and Inspections Act 2006](#) (c. 40), ss. 157, 188, **Sch. 14 para. 68**; S.I. 2007/935, **art. 5(gg)**

*The Information Commissioner*

27C The Information Commissioner.

<sup>F56</sup> . . .

**Textual Amendments**

**F56** Sch. 1 para. 27D and cross-heading "The Royal Parks Constabulary" repealed (8.5.2006) by [Serious Organised Crime and Police Act 2005](#) (c. 15), ss. 161, 174, 178, Sch. 13 para. 10, **Sch. 17**; S.I. 2006/1085, **art. 2(b)(d)(i)**

27D <sup>F57</sup> . . . . . ]

**Textual Amendments**

**F57** Sch. 1 para. 27D and cross-heading "The Royal Parks Constabulary" repealed (8.5.2006) by [Serious Organised Crime and Police Act 2005](#) (c. 15), ss. 161, 174, 178, Sch. 13 para. 10, **Sch. 17**; S.I. 2006/1085, **art. 2(b)(d)(i)**

[<sup>F58</sup> *The General Pharmaceutical Council.*]

**Textual Amendments**

**F58** Sch. 1 para. 28 and heading substituted (27.9.2010) by [The Pharmacy Order 2010](#) (S.I. 2010/231), arts. 1, 68, **Sch. 4 para. 8**; S.I. 2010/1621, arts. 1(1), **2(1)**, Sch.

[<sup>F59</sup>28 The General Pharmaceutical Council.]

**Textual Amendments**

**F59** Sch. 1 para. 28 and heading substituted (27.9.2010) by [The Pharmacy Order 2010](#) (S.I. 2010/231), arts. 1, 68, **Sch. 4 para. 8**; S.I. 2010/1621, arts. 1(1), **2(1)**, Sch.

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F60 ...

**Textual Amendments**

**F60** Sch. 1 Pt. 2(heading) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 65](#)

F61 28A .....

**Textual Amendments**

**F61** Sch. 1 para. 28A omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 65](#)

*[F62] Special constables nominated by the Dover Harbour Board*

**Textual Amendments**

**F62** Sch. 1 paras. 28A-28E and cross-headings inserted (6.4.2010) by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(S.I. 2010/521\)](#), arts. 1(1), [2\(6\)](#) (with art. 9)

28B The force comprising the special constables appointed under section 79 of the Harbours, Docks and Piers Clauses Act 1847 on the nomination of the Dover Harbour Board.

*The Department for Work and Pensions*

28C The Department for Work and Pensions.

F63 ...

**Textual Amendments**

**F63** Sch. 1 para. 28D and cross-heading "The Postal Services Commission" omitted (1.10.2011) by virtue of [Postal Services Act 2011\(c. 5\)](#), ss. 91, 93(2)(3), {[Sch. 12 para. 161\(a\)](#)}; [S.I. 2011/2329](#), [art. 3](#)

28D F64 .....

**Textual Amendments**

**F64** Sch. 1 para. 28D and cross-heading "The Postal Services Commission" omitted (1.10.2011) by virtue of [Postal Services Act 2011\(c. 5\)](#), ss. 91, 93(2)(3), {[Sch. 12 para. 161\(a\)](#)}; [S.I. 2011/2329](#), [art. 3](#)

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### *Universal service providers*

- 28E A universal service provider (within the meaning of [<sup>F65</sup>Part 3 of the Postal Services Act 2011]) acting in connection with the provision of a universal postal service (within the meaning of [<sup>F66</sup>that Part]).]

#### **Textual Amendments**

- F65** Words in Sch. 1 para. 28E substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), ss. 91, 93\(3\), Sch. 12 para. 161\(b\)\(i\)](#); S.I. 2011/2329, [art. 3\(1\)](#)
- F66** Words in Sch. 1 para. 28E substituted (1.10.2011) by [Postal Services Act 2011 \(c. 5\), ss. 91, 93\(3\), Sch. 12 para. 161\(b\)\(ii\)](#); S.I. 2011/2329, [art. 3\(1\)](#)

### *[<sup>F67</sup>The Natural Resources Body for Wales*

#### **Textual Amendments**

- F67** Sch. 1 para 28F and cross-heading inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 398](#) (with Sch. 7)

- 28F The Natural Resources Body for Wales.]

### *[<sup>F68</sup>Northern Ireland authorities*

#### **Textual Amendments**

- F68** Sch. 1 Pt. 2 paras. 29-40 and heading 'Northern Ireland authorities' inserted (2.7.2002) by [Regulation of Investigatory Powers Act 2000 \(Amendment\) Order \(Northern Ireland\) 2002 \(SR 2002/183\), arts. 1, {4}](#)

- 29 The Department of Health, Social Services and Public Safety.
- 30 The Department for Regional Development.
- 31 The Department for Social Development.
- 32 The Department of Culture, Arts and Leisure.
- 33 The Foyle, Carlingford and Irish Lights Commission.
- 34 The Fisheries Conservancy Board for Northern Ireland.
- 35 A Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 <sup>M6</sup>.

#### **Marginal Citations**

- M6** [S.I. 1991/194 \(N.I. 1\)](#)

- 36 A Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 <sup>M7</sup>.

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### Marginal Citations

M7 [S.I. 1972/1265 \(N.I. 14\)](#)

- 37           The Health and Safety Executive for Northern Ireland.
- 38           The Northern Ireland Central Services Agency for the Health and Social Services.
- 39           The Fire Authority for Northern Ireland.
- 40           The Northern Ireland Housing Executive.]

## SCHEDULE 2

Section 49.

### PERSONS HAVING THE APPROPRIATE PERMISSION

#### *Requirement that appropriate permission is granted by a judge*

- 1           (1) Subject to the following provisions of this Schedule, a person has the appropriate permission in relation to any protected information if, and only if, written permission for the giving of section 49 notices in relation to that information has been granted—
- (a) in England and Wales, by a Circuit judge;
  - (b) in Scotland, by a sheriff; or
  - (c) in Northern Ireland, by a county court judge.
- (2) Nothing in paragraphs 2 to 5 of this Schedule providing for the manner in which a person may be granted the appropriate permission in relation to any protected information without a grant under this paragraph shall be construed as requiring any further permission to be obtained in a case in which permission has been granted under this paragraph.

#### *Data obtained under warrant etc.*

- 2           (1) This paragraph applies in the case of protected information falling within section 49(1)(a), (b) or (c) where the statutory power in question is one exercised, or to be exercised, in accordance with—
- (a) a warrant issued by the Secretary of State or a person holding judicial office; or
  - (b) an authorisation under Part III of the <sup>M8</sup>Police Act 1997 (authorisation of otherwise unlawful action in respect of property).
- (2) Subject to sub-paragraphs (3) to (5) and paragraph 6(1), a person has the appropriate permission in relation to that protected information (without any grant of permission under paragraph 1) if—
- (a) the warrant or, as the case may be, the authorisation contained the relevant authority's permission for the giving of section 49 notices in relation to protected information to be obtained under the warrant or authorisation; or
  - (b) since the issue of the warrant or authorisation, written permission has been granted by the relevant authority for the giving of such notices in relation to protected information obtained under the warrant or authorisation.

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- (3) Only persons holding office under the Crown, the police [<sup>F69</sup>, [<sup>F70</sup>the National Crime Agency,]]<sup>F71</sup>... and [<sup>F72</sup>Her Majesty's Revenue and Customs] shall be capable of having the appropriate permission in relation to protected information obtained, or to be obtained, under a warrant issued by the Secretary of State.
- (4) Only a person who—
  - (a) was entitled to exercise the power conferred by the warrant, or
  - (b) is of the description of persons on whom the power conferred by the warrant was, or could have been, conferred,shall be capable of having the appropriate permission in relation to protected information obtained, or to be obtained, under a warrant issued by a person holding judicial office.
- (5) Only the police [<sup>F73</sup>, [<sup>F74</sup>the National Crime Agency,]]<sup>F75</sup>... and [<sup>F72</sup>Her Majesty's Revenue and Customs] shall be capable of having the appropriate permission in relation to protected information obtained, or to be obtained, under an authorisation under Part III of the <sup>M9</sup>Police Act 1997.
- (6) In this paragraph “the relevant authority”—
  - (a) in relation to a warrant issued by the Secretary of State, means the Secretary of State;
  - (b) in relation to a warrant issued by a person holding judicial office, means any person holding any judicial office that would have entitled him to issue the warrant; and
  - (c) in relation to protected information obtained under an authorisation under Part III of the <sup>M10</sup>Police Act 1997, means (subject to sub-paragraph (7)) an authorising officer within the meaning of section 93 of that Act.
- (7) Section 94 of the <sup>M11</sup>Police Act 1997 (power of other persons to grant authorisations in urgent cases) shall apply in relation to—
  - (a) an application for permission for the giving of section 49 notices in relation to protected information obtained, or to be obtained, under an authorisation under Part III of that Act, and
  - (b) the powers of any authorising officer (within the meaning of section 93 of that Act) to grant such a permission,as it applies in relation to an application for an authorisation under section 93 of that Act and the powers of such an officer under that section.
- (8) References in this paragraph to a person holding judicial office are references to—
  - (a) any judge of the Crown Court or of the High Court of Justiciary;
  - (b) any sheriff;
  - (c) any justice of the peace;
  - (d) any resident magistrate in Northern Ireland; or
  - (e) any person holding any such judicial office as entitles him to exercise the jurisdiction of a judge of the Crown Court or of a justice of the peace.
- (9) Protected information that comes into a person's possession by means of the exercise of any statutory power which—
  - (a) is exercisable without a warrant, but

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(b) is so exercisable in the course of, or in connection with, the exercise of another statutory power for which a warrant is required, shall not be taken, by reason only of the warrant required for the exercise of the power mentioned in paragraph (b), to be information in the case of which this paragraph applies.

#### Textual Amendments

- F69** Words in Sch. 2 para. 2(3) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 156\(2\)\(a\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 10 (subject to [art. 4\(2\)-\(7\)](#))
- F70** Words in Sch. 2 para. 2(3) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 100\(2\)](#); S.I. 2013/1682, [art. 3\(v\)](#)
- F71** Word in Sch. 2 para. 2(3) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), [art. 1\(2\)](#), [Sch. 2 para. 33\(26\)\(a\)](#)
- F72** Words in Sch. 2 para. 2(3)(5) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(1\)](#); S.I. 2008/219, [art. 2\(b\)](#)
- F73** Words in Sch. 2 para. 2(5) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 156\(2\)\(b\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 10 (subject to [art. 4\(2\)-\(7\)](#))
- F74** Words in Sch. 2 para. 2(5) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 100\(2\)](#); S.I. 2013/1682, [art. 3\(v\)](#)
- F75** Word in Sch. 2 para. 2(5) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), [art. 1\(2\)](#), [Sch. 2 para. 33\(26\)\(a\)](#)

#### Modifications etc. (not altering text)

- C2** Sch. 2 para. 2(3) restricted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 16, 17, 53(1), [Sch. 2 Pt. 1 para. 11\(2\)\(c\)](#); S.I. 2005/1126, [art. 2\(2\)\(d\)](#)

#### Marginal Citations

- M8** 1997 c. 50.  
**M9** 1997 c. 50.  
**M10** 1997 c. 50.  
**M11** 1997 c. 50.

#### *Data obtained by the intelligence services under statute but without a warrant*

- 3 (1) This paragraph applies in the case of protected information falling within section 49(1)(a), (b) or (c) which—
- (a) has come into the possession of any of the intelligence services or is likely to do so; and
  - (b) is not information in the case of which paragraph 2 applies.
- (2) Subject to paragraph 6(1), a person has the appropriate permission in relation to that protected information (without any grant of permission under paragraph 1) if written permission for the giving of section 49 notices in relation to that information has been granted by the Secretary of State.
- (3) Sub-paragraph (2) applies where the protected information is in the possession, or (as the case may be) is likely to come into the possession, of both—
- (a) one or more of the intelligence services, and



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(b) a public authority which is not one of the intelligence services, as if a grant of permission under paragraph 1 were unnecessary only where the application to the Secretary of State for permission under that sub-paragraph is made by or on behalf of a member of one of the intelligence services.

*Data obtained under statute by other persons but without a warrant*

- 4 (1) This paragraph applies—
- (a) in the case of protected information falling within section 49(1)(a), (b) or (c) which is not information in the case of which paragraph 2 or 3 applies; and
  - (b) in the case of protected information falling within section 49(1)(d) which is not information also falling within section 49(1)(a), (b) or (c) in the case of which paragraph 3 applies.
- (2) Subject to paragraph 6, where—
- (a) the statutory power was exercised, or is likely to be exercised, by the police, <sup>F76</sup>the National Crime Agency], <sup>F77</sup>... <sup>F78</sup>Her Majesty's Revenue and Customs] or a member of Her Majesty's forces, or
  - (b) the information was provided or disclosed, or is likely to be provided or disclosed, to the police, <sup>F76</sup>the National Crime Agency], <sup>F77</sup>... <sup>F78</sup>Her Majesty's Revenue and Customs] or a member of Her Majesty's forces, or
  - (c) the information is in the possession of, or is likely to come into the possession of, the police, <sup>F76</sup>the National Crime Agency], <sup>F77</sup>... <sup>F78</sup>Her Majesty's Revenue and Customs] or a member of Her Majesty's forces,
- the police, <sup>F76</sup>the National Crime Agency], <sup>F77</sup>... <sup>F78</sup>Her Majesty's Revenue and Customs] or, as the case may be, members of Her Majesty's forces have the appropriate permission in relation to the protected information, without any grant of permission under paragraph 1.
- (3) In any other case a person shall not have the appropriate permission by virtue of a grant of permission under paragraph 1 unless he is a person falling within sub-paragraph (4).
- (4) A person falls within this sub-paragraph if, as the case may be—
- (a) he is the person who exercised the statutory power or is of the description of persons who would have been entitled to exercise it;
  - (b) he is the person to whom the protected information was provided or disclosed, or is of a description of person the provision or disclosure of the information to whom would have discharged the statutory duty; or
  - (c) he is a person who is likely to be a person falling within paragraph (a) or (b) when the power is exercised or the protected information provided or disclosed.

**Textual Amendments**

**F76** Words in Sch. 2 para. 4(2) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\)](#), [Sch. 8 para. 100\(3\)](#); [S.I. 2013/1682, art. 3\(v\)](#)

**F77** Word in Sch. 2 para. 4(2) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\), art. 1\(2\)](#), [Sch. 2 para. 33\(26\)\(b\)](#)

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**F78** Words in Sch. 2 para. 4(2) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(1\)](#); S.I. 2008/219, [art. 2\(b\)](#)

**Modifications etc. (not altering text)**

**C3** Sch. 2 para. 4(2) restricted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 16, 17, 53(1), [Sch. 2 Pt. 1 para. 11\(2\)\(c\)](#); S.I. 2005/1126, [art. 2\(2\)\(d\)](#)

*Data obtained without the exercise of statutory powers*

- 5 (1) This paragraph applies in the case of protected information falling within section 49(1)(e).
- (2) Subject to paragraph 6, a person has the appropriate permission in relation to that protected information (without any grant of permission under paragraph 1) if—
- (a) the information is in the possession of any of the intelligence services, or is likely to come into the possession of any of those services; and
  - (b) written permission for the giving of section 49 notices in relation to that information has been granted by the Secretary of State.
- (3) Sub-paragraph (2) applies where the protected information is in the possession, or (as the case may be) is likely to come into the possession, of both—
- (a) one or more of the intelligence services, and
  - (b) the police, [<sup>F79</sup>the National Crime Agency]<sup>F80</sup> ... or [<sup>F81</sup>Her Majesty's Revenue and Customs],

as if a grant of permission under paragraph 1 were unnecessary only where the application to the Secretary of State for permission under that sub-paragraph is made by or on behalf of a member of one of the intelligence services.

**Textual Amendments**

**F79** Words in Sch. 2 para. 5(3)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 100\(4\)](#); S.I. 2013/1682, [art. 3\(v\)](#)

**F80** Word in Sch. 2 para. 5(3)(b) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), [art. 1\(2\)](#), [Sch. 2 para. 33\(26\)\(c\)](#)

**F81** Words in Sch. 2 para. 5(3)(b) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(1\)](#); S.I. 2008/219, [art. 2\(b\)](#)

*General requirements relating to the appropriate permission*

- 6 (1) A person does not have the appropriate permission in relation to any protected information unless he is either—
- (a) a person who has the protected information in his possession or is likely to obtain possession of it; or
  - (b) a person who is authorised (apart from this Act) to act on behalf of such a person.
- (2) Subject to sub-paragraph (3), a constable does not by virtue of paragraph 1, 4 or 5 have the appropriate permission in relation to any protected information unless—
- (a) he is of or above the rank of superintendent; or

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- (b) permission to give a section 49 notice in relation to that information has been granted by a person holding the rank of superintendent, or any higher rank.
- (3) In the case of protected information that has come into the police’s possession by means of the exercise of powers conferred by—
  - (a) [<sup>F82</sup>section 47A] of the <sup>M12</sup>Terrorism Act 2000 (power to stop and search) [<sup>F83</sup>(including that section as it had effect by virtue of the Terrorism Act 2000 (Remedial) Order 2011 (S.I. 2011/631)], or
  - (b) [<sup>F84</sup>section 44 of the Terrorism Act 2000 or] section 13A or 13B of the <sup>M13</sup>Prevention of Terrorism (Temporary Provisions) Act 1989 (which [<sup>F85</sup>previously had effect for similar purposes],  
the permission required by sub-paragraph (2) shall not be granted by any person below the rank mentioned in [<sup>F86</sup>paragraph 14(1) and (2) of Schedule 6B to that Act of 2000 (see the definition of “senior police officer”),] section 44(4) of that Act of 2000 or, as the case may be, section 13A(1) of that Act of 1989.
- [<sup>F87</sup>(3A) A [<sup>F88</sup>National Crime Agency officer] does not by virtue of paragraph 1, 4 or 5 have the appropriate permission in relation to any protected information unless permission to give a section 49 notice in relation to that information has been granted—
  - (a) by the Director General; or
  - (b) by a member of the staff of the Agency of or above such level as the Director General may designate for the purposes of this sub-paragraph.]
- [<sup>F89</sup>(3B) . . . . .
- (4) [<sup>F90</sup>An officer of Revenue and Customs] does not by virtue of paragraph 1, 4 or 5 have the appropriate permission in relation to any protected information unless permission to give a section 49 notice in relation to that information has been granted—
  - (a) by [<sup>F91</sup>the Commissioners for Her Majesty's Revenue and Customs]; or
  - (b) by an officer of [<sup>F92</sup>Revenue and Customs] of or above such level as [<sup>F93</sup>the Commissioners] may designate for the purposes of this sub-paragraph.
- (5) A member of Her Majesty’s forces does not by virtue of paragraph 1, 4 or 5 have the appropriate permission in relation to any protected information unless—
  - (a) he is of or above the rank of lieutenant colonel or its equivalent; or
  - (b) permission to give a section 49 notice in relation to that information has been granted by a person holding the rank of lieutenant colonel or its equivalent, or by a person holding a rank higher than lieutenant colonel or its equivalent.
- [<sup>F94</sup>(6) In sub-paragraph (2) “constable” does not include a constable who is a [<sup>F95</sup>National Crime Agency officer]<sup>F96</sup>....]

#### Textual Amendments

- F82** Words in Sch. 2 para. 6(3)(a) substituted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 27\(a\)\(i\)](#) (with s. 97); S.I. 2012/1205, art. 4(k)
- F83** Words in Sch. 2 para. 6(3)(a) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 27\(a\)\(ii\)](#) (with s. 97); S.I. 2012/1205, art. 4(k)
- F84** Words in Sch. 2 para. 6(3)(b) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 27\(b\)\(i\)](#) (with s. 97); S.I. 2012/1205, art. 4(k)

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- F85** Words in Sch. 2 para. 6(3)(b) substituted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 27\(b\)\(ii\)](#) (with s. 97); S.I. 2012/1205, art. 4(k)
- F86** Words in Sch. 2 para. 6(3) inserted (10.7.2012) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 27\(c\)](#) (with s. 97); S.I. 2012/1205, art. 4(k)
- F87** Sch. 2 para. 6(3A) inserted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 156\(5\)\(a\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 10 (subject to art. 4(2)-(7))
- F88** Words in Sch. 2 para. 6(3A) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 100\(5\)](#); S.I. 2013/1682, art. 3(v)
- F89** Sch. 2 para. 6(3B) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 2 para. 33\(26\)\(d\)\(i\)](#)
- F90** Words in Sch. 2 para. 6(4) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(2\)\(a\)](#); S.I. 2008/219, [art. 2\(a\)](#)
- F91** Words in Sch. 2 para. 6(4) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(2\)\(a\)](#); S.I. 2008/219, [art. 2\(b\)](#)
- F92** Words in Sch. 2 para. 6(4) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(2\)\(a\)](#); S.I. 2008/219, [art. 2\(c\)](#)
- F93** Words in Sch. 2 para. 6(4) substituted (15.2.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 88, 94, [Sch. 12 para. 29\(2\)\(a\)](#); S.I. 2008/219, [art. 2\(d\)](#)
- F94** Sch. 2 para. 6(6) added (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 156\(5\)\(b\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 10 (subject to art. 4(2)-(7))
- F95** Words in Sch. 2 para. 6(6) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 100\(5\)](#); S.I. 2013/1682, art. 3(v)
- F96** Words in Sch. 2 para. 6(6) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), art. 1(2), [Sch. 2 para. 33\(26\)\(d\)\(ii\)](#)

#### **Modifications etc. (not altering text)**

- C4** Sch. 2 para. 6(3) modified (18.3.2011) by [The Terrorism Act 2000 \(Remedial\) Order 2011 \(S.I. 2011/631\)](#), arts. 1, 5, [Sch. 2 para. 4](#)

#### **Marginal Citations**

- M12** 2000 c. 11.  
**M13** 1989 c. 4.

#### *Duration of permission*

- 7 (1) A permission granted by any person under any provision of this Schedule shall not entitle any person to give a section 49 notice at any time after the permission has ceased to have effect.
- (2) Such a permission, once granted, shall continue to have effect (notwithstanding the cancellation, expiry or other discharge of any warrant or authorisation in which it is contained or to which it relates) until such time (if any) as it—
- (a) expires in accordance with any limitation on its duration that was contained in its terms; or
  - (b) is withdrawn by the person who granted it or by a person holding any office or other position that would have entitled him to grant it.

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*Formalities for permissions granted by the Secretary of State*

- 8 A permission for the purposes of any provision of this Schedule shall not be granted by the Secretary of State except—
- (a) under his hand; or
  - (b) in an urgent case in which the Secretary of State has expressly authorised the grant of the permission, under the hand of a senior official.

SCHEDULE 3

Section 65.

THE TRIBUNAL

*Membership of the Tribunal*

- 1 (1) A person shall not be appointed as a member of the Tribunal unless he is—
- (a) a person who holds or has held a high judicial office (within the meaning of [F97]Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council];
  - [F98](b) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;]
  - (c) an advocate or solicitor in Scotland of at least [F99]seven] years' standing; or
  - (d) a member of the Bar of Northern Ireland or [F100]solicitor of the Court of Judicature of Northern Ireland] of at least [F99]seven] years' standing.
- (2) Subject to the following provisions of this paragraph, the members of the Tribunal shall hold office during good behaviour.
- (3) A member of the Tribunal shall vacate office at the end of the period of five years beginning with the day of his appointment, but shall be eligible for reappointment.
- (4) A member of the Tribunal may be relieved of office by Her Majesty at his own request.
- (5) A member of the Tribunal may be removed from office by Her Majesty on an Address presented to Her by both Houses of Parliament.
- (6) If the Scottish Parliament passes a resolution calling for the removal of a member of the Tribunal, it shall be the duty of the Secretary of State to secure that a motion for the presentation of an Address to Her Majesty for the removal of that member, and the resolution of the Scottish Parliament, are considered by each House of Parliament.

**Textual Amendments**

- F97** Words in Sch. 3 para. 1(1)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 145, 148, [Sch. 17 para. 30\(2\)](#); S.I. 2009/1604, [art. 2\(e\)](#)
- F98** Sch. 3 para. 1(1)(b) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 50, 148, [Sch. 10 para. 33\(2\)](#); S.I. 2008/1653, [art. 2\(d\)](#)
- F99** Words in Sch. 3 para. 1(1)(c)(d) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 50, 148, [Sch. 10 para. 33\(3\)](#); S.I. 2008/1653, [art. 2\(d\)](#)
- F100** Words in Sch. 3 para. 1(1)(d) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), [Sch. 11 para. 5](#); S.I. 2009/1604, [art. 2\(d\)](#)

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### *President and Vice-President*

- 2 (1) Her Majesty may by Letters Patent appoint as President or Vice-President of the Tribunal a person who is, or by virtue of those Letters will be, a member of the Tribunal.
- (2) A person shall not be appointed President of the Tribunal unless he holds or has held a high judicial office (within the meaning of [F101Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council]).
- (3) If at any time—
- (a) the President of the Tribunal is temporarily unable to carry out any functions conferred on him by this Schedule or any rules under section 69, or
  - (b) the office of President of the Tribunal is for the time being vacant,
- the Vice-President shall carry out those functions.
- (4) A person shall cease to be President or Vice-President of the Tribunal if he ceases to be a member of the Tribunal.

#### **Textual Amendments**

**F101** Words in Sch. 3 para. 2(2) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 145, 148, Sch. 17 para. 30(2); S.I. 2009/1604, art. 2(e)

### *Members of the Tribunal with special responsibilities*

- 3 (1) The President of the Tribunal shall designate one or more members of the Tribunal as the member or members having responsibilities in relation to matters involving the intelligence services.
- (2) It shall be the duty of the President of the Tribunal, in exercising any power conferred on him by rules under section 69 to allocate the members of the Tribunal who are to consider or hear any complaint, proceedings, reference or preliminary or incidental matter, to exercise that power in a case in which the complaint, proceedings or reference relates to, or to a matter involving—
- (a) an allegation against any of the intelligence services or any member of any of those services, or
  - (b) conduct by or on behalf of any of those services or any member of any of those services,
- in such manner as secures that the allocated members consist of, or include, one or more of the members for the time being designated under sub-paragraph (1).

### *Salaries and expenses*

- 4 (1) The Secretary of State shall pay to the members of the Tribunal out of money provided by Parliament such remuneration and allowances as he may with the approval of the Treasury determine.
- (2) Such expenses of the Tribunal as the Secretary of State may with the approval of the Treasury determine shall be defrayed by him out of money provided by Parliament.



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### *Officers*

- 5 (1) The Secretary of State may, after consultation with the Tribunal and with the approval of the Treasury as to numbers, provide the Tribunal with such officers as he thinks necessary for the proper discharge of their functions.
- (2) The Tribunal may authorise any officer provided under this paragraph to obtain any documents or information on the Tribunal’s behalf.

### *Parliamentary disqualification*

- 6 In Part II of Schedule 1 to the <sup>M14</sup>House of Commons Disqualification Act 1975 and in Part II of Schedule 1 to the <sup>M15</sup>Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted (at the appropriate places) the following entry—

“The Tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000”.

#### **Marginal Citations**

**M14** 1975 c. 24.

**M15** 1975 c. 25.

## SCHEDULE 4

Section 82.

### CONSEQUENTIAL AMENDMENTS

#### *The Post Office Act 1953 (c. 36)*

F102<sub>1</sub> .....

#### **Textual Amendments**

**F102** Sch. 4 para. 1 repealed (26.3.2001) by S. I. 2001/1149, art. 3(2), Sch. 2 (with art. 4(11))

#### *The Post Office Act 1969 (c. 48)*

F103<sub>2</sub> .....

#### **Textual Amendments**

**F103** Sch. 4 para. 2 repealed (26.3.2001) by S. I. 2001/1149, art. 3(2), Sch. 2 (with art. 4(11))

#### *The Telecommunications Act 1984 (c. 12)*

3

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[<sup>F104</sup>In section 45 of the <sup>M16</sup>Telecommunications Act 1984 (offence of disclosing of messages and use of telecommunication system), for subsections (2) and (3) there shall be substituted—

- “(2) Subsection (1) above does not apply to any disclosure made—
- (a) in accordance with the order of any court or for the purposes of any criminal proceedings;
  - (b) in accordance with any warrant, authorisation or notice issued, granted or given under any provision of the Regulation of Investigatory Powers Act 2000;
  - (c) in compliance with any requirement imposed (apart from that Act) in consequence of the exercise by any person of any statutory power exercisable by him for the purpose of obtaining any document or other information; or
  - (d) in pursuance of any duty under that Act of 2000, or under Part III of the <sup>M17</sup>Police Act 1997, to provide information or produce any document to the Interception of Communications Commissioner or to the tribunal established under section 65 of that Act of 2000.
- (3) In subsection (2) above “criminal proceedings” and “statutory power” have the same meanings as in the Regulation of Investigatory Powers Act 2000.”]

#### Textual Amendments

**F104** Sch. 4 para. 3 repealed (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406, 408, 411, **Sch. 19(1)** (with transitional provisions in Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1; S.I. 2003/3142, **art. 3(2)** (with art. 11)

#### Marginal Citations

**M16** 1984 c. 12.

**M17** 1997 c. 50.

#### *The Security Service Act 1989 (c. 5)*

- 4 (1) In section 1 of the <sup>M18</sup>Security Service Act 1989 (functions of the Security Service), after subsection (4) there shall be inserted—

“(5) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”), so far as it relates to serious crime, shall apply for the purposes of this Act as it applies for the purposes of the provisions of that Act not contained in Chapter I of Part I.”

- (2) In section 2(2)(a) of that Act (duty of Director General to secure that information not disclosed except for authorised purposes), for “preventing or detecting” there shall be substituted “the prevention or detection of”.

#### Marginal Citations

**M18** 1989 c. 5.



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*The Official Secrets Act 1989 (c. 6)*

- 5 In section 4(3)(a) of the <sup>M19</sup>Official Secrets Act 1989 (offence of disclosing interception information), after “1985” there shall be inserted “ or under the authority of an interception warrant under section 5 of the Regulation of Investigatory Powers Act 2000 ”.

**Marginal Citations**

**M19** 1989 c. 6.

*The Intelligence Services Act 1994 (c. 13)*

- 6 In section 11 of the <sup>M20</sup>Intelligence Services Act 1994 (interpretation), after subsection (1) there shall be inserted—
- “(1A) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”), so far as it relates to serious crime, shall apply for the purposes of this Act as it applies for the purposes of Chapter I of Part I of that Act.”

**Marginal Citations**

**M20** 1994 c. 13.

*The Criminal Procedure and Investigations Act 1996 (c. 25)*

- 7 (1) In each of sections 3(7), 7(6), 8(6) and 9(9) of the <sup>M21</sup>Criminal Procedure and Investigations Act 1996 (exceptions for interceptions from obligations to make disclosures to the defence), for paragraphs (a) and (b) there shall be substituted “ it is material the disclosure of which is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000. ”
- (2) In section 23(6) of that Act (code of practice not to apply to material intercepted under the Interception of Communications Act 1985), after “1985” there shall be inserted “ or under the authority of an interception warrant under section 5 of the Regulation of Investigatory Powers Act 2000 ”.

**Marginal Citations**

**M21** 1996 c. 25.

*The Police Act 1997 (c. 50)*

- 8 (1) In section 91(9) of the <sup>M22</sup>Police Act 1997 (staff for Surveillance Commissioners)—
- (a) after “Chief Commissioner” there shall be inserted “ and subject to the approval of the Treasury as to numbers ”; and
- (b) after “Commissioners” there shall be inserted “ and any Assistant Surveillance Commissioners holding office under section 63 of the Regulation of Investigatory Powers Act 2000 ”.

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- (2) In section 93(3) of that Act (persons who may make an application to an authorising officer within section 93(5))—
- (a) in paragraph (a), for “(e)” there shall be substituted “ (ea) or (ee) ”; and
  - (b) after that paragraph there shall be inserted—
    - “(aa) if the authorising officer is within subsection (5)(eb) to (ed), by a member, as the case may be, of the Royal Navy Regulating Branch, the Royal Military Police or the Royal Air Force Police;”.
- (3) In section 94(1) of that Act (circumstances in which authorisations may be given in absence of authorising officer), in paragraph (b), for “, (f), (g) or (h)” there shall be substituted “ or (f) ”, and after that paragraph there shall be inserted “or
- (c) if the authorising officer is within paragraph (g) of section 93(5), it is also not reasonably practicable for the application to be considered either—
    - (i) by any other person designated for the purposes of that paragraph; or
    - (ii) by the designated deputy of the Director General of the National Crime Squad.”
- (4) In section 94(2) of that Act (persons who may act in absence of the authorising officer)—
- (a) after paragraph (d), there shall be inserted—
    - “(da) where the authorising officer is within paragraph (ea) of that subsection, by a person holding the rank of deputy or assistant chief constable in the Ministry of Defence Police;
    - (db) where the authorising officer is within paragraph (eb) of that subsection, by a person holding the position of assistant Provost Marshal in the Royal Navy Regulating Branch;
    - (dc) where the authorising officer is within paragraph (ec) or (ed) of that subsection, by a person holding the position of deputy Provost Marshal in the Royal Military Police or, as the case may be, in the Royal Air Force Police;
    - (dd) where the authorising officer is within paragraph (ee) of that subsection, by a person holding the rank of deputy or assistant chief constable in the British Transport Police;”;
  - (b) in paragraph (e), the words “or (g)” and “or, as the case may be, of the National Crime Squad” shall be omitted; and
  - (c) <sup>F105</sup> .....
- (5) <sup>F106</sup> .....
- (6) In section 95 of that Act (authorisations: form and duration etc.)—
- (a) in each of subsections (4) and (5), for the words from “the action” onwards there shall be substituted “ the authorisation is one in relation to which the requirements of paragraphs (a) and (b) of section 93(2) are no longer satisfied. ”; and
  - (b) in subsection (6), for “or (e)” there shall be substituted “ , (e) or (g) ”.

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- (7) In section 97 of that Act (authorisations requiring approval), in subsection (6), the words from “(and paragraph 7” onwards shall be omitted, and after that subsection there shall be inserted—
- “(6A) The reference in subsection (6) to the authorising officer who gave the authorisation or in whose absence it was given shall be construed, in the case of an authorisation given by or in the absence of a person within paragraph (b), (e) or (g) of section 93(5), as a reference to the Commissioner of Police, Chief Constable or, as the case may be, Director General mentioned in the paragraph concerned.”
- (8) In section 103(7) of that Act (quashing authorisations), for the words from “and paragraph 7” onwards there shall be substituted “ and subsection (6A) of section 97 shall apply for the purposes of this subsection as it applies for the purposes of subsection (6) of that section. ”
- (9) In section 105 of that Act (appeals by authorising officers: supplementary), in subsection (1)(a), the word “and” shall be inserted at the end of sub-paragraph (i), and sub-paragraph (iii) and the word “and” immediately preceding it shall be omitted.
- (10) In section 107 of that Act—
- (a) in subsection (2) (report of Chief Surveillance Commissioner on the discharge of his functions under Part III of that Act)—
- (i) for “the discharge of functions under this Part” there shall be substituted “ the matters with which he is concerned ”; and
- (ii) for “any matter relating to those functions” there shall be substituted “ anything relating to any of those matters ”;
- (b) in subsection (4) (matters that may be excluded from a report), for “the prevention or detection of serious crime or otherwise” there shall be substituted “ any of the purposes for which authorisations may be given or granted under this Part of this Act or Part II of the Regulation of Investigatory Powers Act 2000 or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by Part II of that Act of 2000 or ”; and
- (c) after subsection (5) (duty to co-operate with the Chief Surveillance Commissioner) there shall be inserted the subsections set out in sub-paragraph (11).
- (11) The subsections inserted after subsection (5) of section 107 of that Act are as follows—
- “(5A) It shall be the duty of—
- (a) every person by whom, or on whose application, there has been given or granted any authorisation the function of giving or granting which is subject to review by the Chief Commissioner,
- (b) every person who has engaged in conduct with the authority of such an authorisation,
- (c) every person who holds or has held any office, rank or position with the same public authority as a person falling within paragraph (a),
- (d) every person who holds or has held any office, rank or position with any public authority for whose benefit (within the meaning of Part II of the Regulation of Investigatory Powers Act 2000) activities

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which are or may be subject to any such review have been or may be carried out, and

- (e) every person to whom a notice under section 49 of the Regulation of Investigatory Powers Act 2000 (notices imposing a disclosure requirement in respect of information protected by a key) has been given in relation to any information obtained by conduct to which such an authorisation relates,

to disclose or provide to the Chief Commissioner all such documents and information as he may require for the purpose of enabling him to carry out his functions.

(5B) It shall be the duty of every Commissioner to give the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000 all such assistance (including his opinion as to any issue falling to be determined by that tribunal) as that tribunal may require—

- (a) in connection with the investigation of any matter by that tribunal; or  
(b) otherwise for the purposes of that tribunal’s consideration or determination of any matter.

(5C) In this section “public authority” means any public authority within the meaning of section 6 of the <sup>M23</sup>Human Rights Act 1998 (acts of public authorities) other than a court or tribunal.”

(12) In section 108(1) of that Act after “In this Part—” there shall be inserted—

““Assistant Commissioner of Police of the Metropolis” includes the Deputy Commissioner of Police of the Metropolis;”.

(13) In Part VII of that Act, before section 134 there shall be inserted—

#### **Meaning of “prevention” and “detection”.**

“133A Section 81(5) of the Regulation of Investigatory Powers Act 2000 (meaning of “prevention” and “detection”) shall apply for the purposes of this Act as it applies for the purposes of the provisions of that Act not contained in Chapter I of Part I.”

#### **Textual Amendments**

**F105** Sch. 4 para. 8(4)(c) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, Sch. para. 13(hh) (subject to art. 4(2)-(7))

**F106** Sch. 4 para. 8(5) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 174, 178, **Sch. 17 Pt. 2**; S.I. 2006/378, **art. 4(1)**, Sch. para. 13(hh) (subject to art. 4(2)-(7))

#### **Marginal Citations**

**M22** 1997 c. 50.

**M23** 1998 c. 42.

#### *The Northern Ireland Act 1998 (c. 47)*

<sup>9</sup> In paragraph 17(b) of Schedule 2 to the <sup>M24</sup>Northern Ireland Act 1998 (excepted matters), for “the Interception of Communications Act 1985” there shall be

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substituted “ Chapter I of Part I of the Regulation of Investigatory Powers Act 2000 ”.

**Marginal Citations**

M24 1998 c. 47.

*The Electronic Communications Act 2000 (c. 7)*

10 In section 4(2) of the <sup>M25</sup>Electronic Communications Act 2000 (exception to rules restricting disclosure of information obtained under Part I of that Act), for the word “or” at the end of paragraph (e) there shall be substituted—

“(ea) for the purposes of any proceedings before the tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000; or”.

**Marginal Citations**

M25 2000 c. 7.

*The Financial Services and Markets Act 2000 (c. 8)*

11 In section 394(7) of the <sup>M26</sup>Financial Services and Markets Act 2000 (exclusion of material from material of the Authority to which a person must be allowed access), for paragraphs (a) and (b) there shall be substituted—

“(a) is material the disclosure of which for the purposes of or in connection with any legal proceedings is prohibited by section 17 of the Regulation of Investigatory Powers Act 2000; or”

**Marginal Citations**

M26 2000 c. 8.

*The Terrorism Act 2000 (c. 11)*

12 (1) In section 9(2)(d) of the <sup>M27</sup>Terrorism Act 2000 (proceedings under the <sup>M28</sup>Human Rights Act 1998), for “8” there shall be substituted “ 7 ”.

(2) In each of paragraphs 6(3) and 7(5) of Schedule 3 to that Act (references to an organisation and representative in paragraphs 5 and 8 of that Schedule), for “paragraphs 5 and 8” there shall be substituted “ paragraph 5 ”.

**Marginal Citations**

M27 2000 c. 11.

M28 2000 c. 11.

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## SCHEDULE 5

Section 82.

## REPEALS

**Commencement Information**

- II** [Sch. 5](#) partly in force; [Sch. 5](#) not in force at Royal Assent see [s. 83\(2\)](#); [Sch. 5](#) in force for certain purposes at 25.9.2000 and [Sch. 5](#) in force to the extent that it is not already in force at 2.10.2000 by [S.I. 2000/2543](#), [arts. 2, 3](#) (subject to transitional provisions in [art. 6](#))

Chapter	Short title	Extent of repeal
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the words “The Tribunal established under the Interception of Communications Act 1985”, “The Tribunal established under the Security Service Act 1989”, and “The Tribunal established under section 9 of the Intelligence Services Act 1994”.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the words “The Tribunal established under the Interception of Communications Act 1985”, “The Tribunal established under the Security Service Act 1989”, and “The Tribunal established under section 9 of the Intelligence Services Act 1994”.
1985 c. 56.	The Interception of Communications Act 1985.	Sections 1 to 10. Section 11(3) to (5). Schedule 1.
1989 c. 5.	The Security Service Act 1989.	Sections 4 and 5. Schedules 1 and 2.
1989 c. 6.	The Official Secrets Act 1989.	In Schedule 1, paragraph 3.
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 10, paragraphs 62 and 74.
1994 c. 13.	The Intelligence Services Act 1994.	In section 6(1)(b), the words “of his department”.

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1997 c. 50.

The Police Act 1997.

In section 7(5)(b), the words “of his department”.

Sections 8 and 9.

In section 11(1), paragraph (b).

Schedules 1 and 2.

In section 93(6), paragraph (f) and the word “and” immediately preceding it.

In section 94(1), the word “or” at the end of paragraph (a).

In section 94(2)(e), the words “or (g)” and “or, as the case may be, of the National Crime Squad”.

In section 94(4)—

(a) the words “in his absence”, in each place where they occur; and

(b) paragraph (d) and the word “and” immediately preceding it.

In section 97(6), the words from “(and paragraph 7” onwards.

Sections 101 and 102.

In section 104—

(a) in subsection (1), paragraph (g);

(b) in each of subsections (4), (5) and (6), paragraph (b) and the word “or” immediately preceding it;

(c) in subsection (8), paragraph (b) and the word “and” immediately preceding it.

In section 105(1)(a), subparagraph (iii) and the word “and” immediately preceding it.

Section 106.

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		Section 107(6).
		Schedule 7.
1997 c. 68.	The Special Immigration Appeals Commission Act 1997.	Section 5(7).
1998 c. 37.	The Crime and Disorder Act 1998.	Section 113(1) and (3).
2000 c. 11.	The Terrorism Act 2000.	In Schedule 3, paragraph 8.

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